

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: March 14, 2002

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA02-0009 for Use Permit and Variance

PROPOSAL: The applicant requests approval of a Use Permit (as allowed under Orange County Zoning Code Section 7-9-137.5 "Fences and walls") to permit construction of six (6) feet high walls in both the front 17 ½ feet setback area (on Davenport Road) and side setback 5 feet area (on Orangewood Ave.). The wall height standard in these two setback areas is 3 ½ feet.

A rear yard setback Variance is requested to enclose the area between the residence and the existing detached garage, which is setback five (5) feet from the rear property line. A Variance is required in this situation because the garage then becomes attached to the residence where a rear yard setback of 15 feet is the required.

LOCATION: In the Rossmoor area of Los Alamitos, at the northwest corner of Davenport Road and Orangewood Ave. The site address is 11511 Davenport Road, Los Alamitos. Second Supervisorial District

APPLICANT: Victor and Taren Conforti, property owners

STAFF William V. Melton, Project Manager

CONTACT: Phone: (714) 834-2541 FAX: (714) 667-8344

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA02-0009 for Variance and Use Permit for that portion of the over height wall is the side setback area subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The project site is located in the community of Rossmoor, an unincorporated residential community between the cities of Los Alamitos and Seal Beach; and the 605 freeway. The community was developed in the 50s and 60s and is zoned R1/28 "Residential single-family" District. The project site is located one block west of Los Alamitos Blvd./Seal Beach Blvd., a major six-lane, north/south arterial. The property is approximately 8,000 square feet in area measures 80 feet wide by 103 feet deep and is typical of corner lots in this area of Rossmoor. The lot is developed with a one-story single-family dwelling, and a detached two-car garage in the rear. The garage entrance is form the side street, Orangewood Avenue (a four-lane road). There is also a swimming pool that occupies a majority of the rear yard area. Variance

V6475 was approved on this site to allow a patio cover to be located between the residence and the garage. Following is a brief history of Rossmoor development standard changes.

Rossmoor Development Standards History

During the late 1950s new housing products came on line and tract wide setback variances were granted to builders to provide a greater diversity of product types. The subject site was developed under the original standard R1 residential zoning. Variance 3501 (a tract wide variance approved in 1959) permitted a front setback of 15 feet for certain homes in the tract. The variance applied to the adjacent home to the south but not the subject site.

In addition to the tract variance above, numerous homes in Rossmoor were constructed with side entry garages that took up a substantial area at the front of the homes. Homeowners throughout Rossmoor who wanted to expand the living area of their home were granted rear yard variances for these additions. These variance requests were typically approved for a ten-foot encroachment into the rear yard setback leaving a setback of 15 feet to the property line. Because of these numerous variance requests approved and with the support of the Rossmoor HOA, a zone change affecting all residential properties in Rossmoor was approved by the Board of Supervisors (Ordinance No. 3557) on November 20, 1985. This zone change established a rear yard setback of 15 feet, with a condition that all structures located between 25 feet and 15 feet from the rear property line be limited to a height of 17 feet.

As Rossmoor became more desirable as a residential community during the late 1980s, multi-story residential additions began to appear. The Rossmoor HOA had concerns that with the community's R1 zoning and its 35 foot building height limit, they would be seeing more three story homes. The Rossmoor HOA felt that three-story homes would jeopardize the character and desirability of the community. At the request of the Rossmoor HOA, the Board of Supervisors approved a second community zone change (Ordinance No. 3849) on November 13, 1991. This zone change established a building height limit of 28 feet. The 28 foot height limit would permit the addition of an additional story to homes to the existing single story homes, but would effectively curtail the construction of two-story additions to the typical single level residence.

SURROUNDING LAND USE:

The subject site and surrounding properties are zoned R1/28 "Residential single-family" District with a height limit of 28 feet. The subject site and surrounding properties are developed with a single-family dwelling.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to four County Divisions and Rossmoor Homeowners Association (RHA).

As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The RHA returned comments (Exhibit 2) stating they were not opposed to the variance request or the use permit request for the 6 foot wall in the side yard setback area, but they were opposed to the 6 foot wall in the front setback area.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 11, construction or placement of accessory structures; and, Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

This Planning Application request has three parts: 1) a proposed over height six foot high wall in the side setback area; 2) a proposed over height six foot high wall in the front setback area; and, 3) a proposal to attach the dwelling to a detached garage in the rear setback area which requires a setback variance. Following is a discussion of each of these three parts.

Part 1 – over height walls in the side setback

Normally, a six feet high wall is permitted in a side setback area (subject to special requirements at driveways and street intersections), whether the wall is located adjacent to another property line or a street. However, for this proposal the maximum height for the proposed wall is limited to a height of 3 ½ feet as contained in Zoning Code Section 7-9-137.5 (b) “Fences and walls”, which states (emphasis added):

(b) Setback areas bordering streets.

*(1) The maximum height shall be three and one-half (3-½) feet within any required front setback area and six (6) feet within any rear or side setback area **(through which no vehicular access is taken)** adjoining a public street, up to a maximum depth of twenty (20) feet.*

Because the garage is accessed from the side street, Orangewood Ave, the maximum wall height along this side property line is 3 ½ feet. Zoning Code Section 7-9-137.5 (f) explains that exceptions and modifications to the fence and wall height provisions may be permitted by a Use Permit approved by the Zoning Administrator. Because a 6-foot high wall is a standard height in a side setback area and the start of the wall is back 17 feet from the driveway/street intersection, staff can support this portion of the applicant’s request for a 6-feet high wall in the side setback area.

Part 2 – over height walls in the front setback

Regulations for walls in the front setback area also contained in Zoning Code Section 7-9-137.5 (b) “Fences and walls”, which states (emphasis added):

(b) Setback areas bordering streets.

*(1) The maximum height shall be three and one-half (3-½) feet **within any required front setback area** and six (6) feet within any rear or side setback area (through which no vehicular access is taken) adjoining a public street, up to a maximum depth of twenty (20) feet.*

The applicant claims that a 6 feet high wall is necessary to reduce street noise from both Orangewood Ave and Los Alamitos Blvd, one block to the east (see Exhibit 1) that is currently noticed and may be more noticeable with the proposed construction of a new master bedroom at the corner of the lot. The applicant also wants the wall to provide privacy in the front yard for recreation use since the usable rear yard area is taken up by the garage and a pool surrounded by concrete. The applicant submitted photographs in support of his proposal showing front yard walls in excess of the County wall height standard. Some of the walls are around pool, some setback a distance from the street and some have been in place for many years.

It is true that other over height walls do exist in the front setback area throughout Rossmoor. Some of these walls were built to enclose pools in the front yard and some were built without benefit of County approvals. As an example, the property directly across the street at 11512 Davenport Drive has a 6 feet high wall in the front (see Exhibit 3). This wall was approved 37 years ago in 1965 (County Variance Permit No. V6475) in association with a pool constructed in the front setback area. Another example of an over height wall is located two houses down at 11542 Davenport Road (see Exhibit 3). This wall consists of a low block wall with open wrought iron fencing on top. This wall exceeds the permitted height of 3 ½ feet and there is no record of the property owner having an approved Use Permit.

Staff is of the opinion that a 6 feet high block wall along the front property line would be out of character with the surrounding neighborhood. While over height walls have been approved in the past, the character of Rossmoor has changed in the last 40 years. Evidence of that is the fact that to community wide zone changes (previously addressed) have been approved to protect the character of Rossmoor. The community has greater concerns on how Rossmoor is developing. Permitting 6 feet high front yard walls does not seem to support the current goals of the community.

With regards to the wall in the front setback and in recognition of current community development, staff is recommending Condition of Approval No. 7 the limits the front setback wall to 3 ½ feet with the wall transitioning to 6 feet high between the front and side.

Part 3 – rear yard setback variance

Numerous variances have been approved in Rossmoor to allow additions to the dwelling that would attach the dwelling to a detached garage in a setback area. This proposal is typical of those previous approvals. Since the garage would be attached to the dwelling, a setback of 15 feet is required. While the total structure would be only 5 feet from the rear property line, the new addition to the dwelling would be 24 feet from the property line. Since this procedure has been approved in the past throughout Rossmoor and because the proposal would not have an effect on the property to the rear, staff can support this portion of the applicant's request.

In summary, staff supports the applicant's request for Variance and the Use Permit for an over height wall in the side setback area. Staff does not support the applicant's request for an over height wall along the entire front setback area for reason previously noted. Additionally, staff notes that this opinion reflects the recommendation made by the Rossmoor Homeowners Association on this application (see Exhibit 2).

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA02-0009 for that portion of the Use Permit for an over height wall in the side setback area and the Variance for the rear yard setback subject to the attached Findings and Conditions of Approval; and, deny that portion of the Use Permit for an over height wall in the front setback area.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

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APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation, including photos of over height walls in the community
2. Comment letter from the Rossmoor Homeowners Association dated
3. Site photos
4. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Dept.

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

DATE: April 4, 2001 (Continued from March 14, 2002)

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA02-0009 for Use Permit and Variance

PROPOSAL: The applicant requests approval of a Use Permit (as allowed under Orange County Zoning Code Section 7-9-137.5 "Fences and walls") to permit construction of six (6) feet high walls in both the front 17 ½ feet setback area (on Davenport Road) and side setback 5 feet area (on Orangewood Ave.). The wall height standard in these two setback areas is 3 ½ feet.

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APPLICANT: Victor and Taren Conforti, property owners

STAFF William V. Melton, Project Manager
CONTACT: Phone: (714) 834-2541 FAX: (714) 667-8344

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA02-0009 for Variance and Use Permit for that portion of the over height wall is the side setback area subject to the attached Findings and Conditions of Approval.

DISCUSSION

The Zoning Administrator continued the March 14, 2002 hearing for this proposal because of new project information from the applicant that was not made available to staff prior to the hearing. At the March 14, 2001 hearing, the applicant informed that Zoning Administrator that a Koi pond was proposed to be constructed in the front yard area. Also expressed at that hearing was an opinion that a five-foot high security fence was required around a swimming pool or other water features exceeding a water depth of 18 inches.

On March 25, 2002, the applicant submitted revised site plans now showing a Koi pond in the front yard area located at the northeast corner of the proposed residence addition, 9 feet from the front property line. The proposed Koi pond measures approximately 12 feet x 12 feet with a water depth of approximately 30

inches. The revised plans now show the proposed 6 feet high block wall setback 3 feet from the front property line along Davenport Road. The 3 feet between the wall and the sidewalk is shown as “flower bed” (no information as to type of landscaping was submitted). The applicant also submitted information related noise and the effectiveness of the proposed 6 feet high wall as a sound barrier. This material and the revised site plan are included as Exhibit 3.

Regarding the statements made at the March 14 hearing concerning the 5 feet high fence requirements for pools, staff took the revised plans to the Building Permit Services, DPC Chief for his comments on the pool fence. Staff was informed that the building department has been in the last six months or so enforcing the strictest interpretation the County Ordinance No. 2246 regulating pool fences which states in part (emphasis added):

*Every person in possession of land within the unincorporated area of the County of Orange, either as owner, purchaser under contract, lessee, tenant, licensee, or otherwise upon which is situated a swimming pool or other out-of-door body of water designed, **constructed and used for swimming, dipping or immersion by men, women or children** having a depth in excess of eighteen (18) inches, shall maintain in good condition an enclosure or fence of any material or design except as hereinafter provided substantially constructed not lower than five (5) feet in height above the surface of the ground measured vertically from the outside grade and completely surround such pool or body of water.*

Because the proposed Koi pond, or any similar type of use, is not designed or used for **swimming, dipping or immersion by men, women or children**, the County Ordinance regarding outdoor pools is not applicable and there is no longer a strict County building requirement that the Koi pond, or any similar water body not designed for swimming, be surrounded by a 5-feet high enclosure or fence. Therefore, statements made at the March 14 hearing expressing an opinion that a 5-feet high fence is required by the County around the proposed Koi pond may no longer be applicable.

However, for obvious safety reasons, staff is of the opinion that some type of enclosure around the Koi pond should be provided. Staff feels that an enclosure or fence does not have to be a 6-feet high wall along the entire front property line as proposed by the applicant. In review of the applicant’s revised site plan, it appears that a wall and open type fence combination (such as wrought iron) to a maximum height of 5-feet may be appropriate for this site. In light of the addition of the Koi pond in the front yard and the need for providing a security fencing, staff is recommending that the Zoning Administrator consider a revision to the Condition of Approval No. 7 submitted March 14 to read as follows:

Condition No. 7 as submitted March 14, 2002

Within 30 days of the effective date of the permit or prior to the issuance of a building permit, whichever comes first, the applicant shall submit a revised site plan to the Manager, Current Planning Services Division for review and approval. The revised site plan shall show a gradual reduction in wall height on the diagonal portion of the wall from 6 feet at the pilaster on Orangewood Ave set 15 feet back from the Davenport Drive property line to 3 1/2 feet to the pilaster set 15 feet back from the Orangewood Ave property line. The balance of the wall on the Davenport Drive property line shall have a maximum height of 3 1/2 feet.

Proposed revision to Condition No. 7

Within 30 days of the effective date of the permit or prior to the issuance of a building permit, whichever comes first, the applicant shall submit a revised site plan for the proposed wall(s) in the front setback area to the Manager, Current Planning Services Division for review and approval. The revised site plan shall show a reduction in wall height from 6-feet to 5-feet on the diagonal portion of the wall from the 6-feet high pilaster on Orangewood Ave, set 15 feet west from the Davenport Drive property line, to 5-feet at the pilaster set 15 feet south from the Orangewood Ave property line.

The wall running parallel to Davenport Road south to the residence entrance sidewalk and then along the north side of the sidewalk to the front setback line shall be setback 3 feet from the front property line and a maximum total height not exceeding 5-feet. Said 5-feet total height may include a solid base wall not exceeding a height of 3 ½ feet topped with an open fence material, such as wrought iron, to the 5-feet maximum height limit. The balance of the wall on the Davenport Drive property line shall have a maximum height of 3 1/2 feet.

Exhibit 1 is a diagram showing the location of these different wall heights from the revised condition no. 7 above. The revised condition limits the solid wall in the majority of the front setback area to a height of 3 ½ feet as previously recommended by staff. The revised condition also reflects the need for safety fencing around the proposed Koi pond.

Staff is also submitting additional comments (Exhibit 2) received after the March 14, 2001 hearing from Nancy Gibbs, 11521 Davenport, (property owner adjacent to the subject property on the south) dated March 18, 2001. Staff also notes that two telephone calls were received in support of the proposal from area residents. However, one of callers expressed some reservations about a 6-feet high wall on the property line along Davenport Road.

Staff recommendation has not substantially changed from the recommendation made at the March 14, 2001 hearing. Staff still supports the applicant's request for a Variance to allow the addition between the existing detached garage; and, the Use Permit for the 6-feet high wall in the side yard setback area. While staff still recommends a solid block wall height of 3 ½ feet in the front setback area, staff also recognizes though, that some type of fence enclosure should be provided around the proposed Koi pond for safety reasons. Staff recommends that the Zoning Administrator consider the revised Condition of Approval No. 7, or similar type wording, in his action. Staff is resubmitting the Findings (Appendix A) and Conditions of Approval (Appendix B) provided at the March 14, 2002 hearing.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- c. Approve Planning Application PA02-0009 for that portion of the Use Permit for an over height wall in the side setback area and the Variance for the rear yard setback; that portion of the Use Permit for an over height wall in the front setback area necessary for public safety subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

WVM

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APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Revised Condition of Approval No. 7 wall height diagram
2. Comments received from Nancy Gibbs
3. Revised Site Plan and supplemental information

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Dept.